HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1001 (MB) 2003.

1. Rajendra Prasad Thapliyal
   S/o late Sri Dyanand Thapliyal,
   R/o 46, Shanti Vihar, Mothrawali Road,
   Azabpur Kalan, Dehradun,
2. Durga Prasad Thapliyal
   S/o late Sri Harshvardhan Thapliyal,
   R/o Type –III/7, Officers Colony,
   Race Course, Dehradun,
3. Devi Prasad Thapliyal,
   S/o late Sri Harshvardhan Thapliyal,
   R/o Type –III/7, Officers Colony,
   Race Course, Dehradun,
4. Indra Mohan Nautiyal,
   S/o late Sri Vidhya Dutt Nautiyal,
   R/o 169, Rambagh Colony, Surajkund,
   Meerut (U.P.),
5. Rajendra Mohan Nautiyal,
   S/o late Sri Vidhya Dutt Nautiyal,
   R/o 169, Rambagh Colony, Surajkund,
   Meerut (U.P.), ----Petitioners.

Versus

1. Union of India through Secretary, Energy,
   New Delhi,
2. District Magistrate/Director Rehabilitation,
   Tehri Hydro Development Corporation,
   New Tehri, Tehri Garhwal,
2. M/s Tehri Hydro Development Corporation,
   Bhagirathipuram, New Tehri. ---Respondents.

Mr. I.P. Gairola, learned counsel for the petitioners,
Learned Standing Counsel for Union of India,
Sri U.K. Uniyal, learned Senior Counsel for respondent nos.2 & 3.

Coram:- Hon'ble P.C. Verma, J.
Hon'ble M.M. Ghildiyal, J.

P.C.:

Heard Mr. I.P. Gairola, learned counsel for the petitioners, Learned Standing Counsel for Union of India, Sri U.K. Uniyal, learned Senior Counsel for respondent nos. 2 & 3.

The present writ petition has been filed by the petitioners seeking a writ of mandamus commanding the respondents to pay house construction assistance to the petitioner alongwith the interest @ 12% per annum from May 1996 to November 1999 on the cash amount paid to the petitioners in lieu of the allotted plots as has been granted to the others.

Counsel for the petitioner has submitted that the properties of the petitioner situated at Old Tehri city was acquired and petitioner were allotted plots in district Dehradun. To protect interest of the allotees, the respondents issued a Notification that allottes shall be paid cash if they surrender the allotted plots. Pursuant to the Notification, the petitioners have surrendered their allotted plots to the respondent no. 3. The respondents issued another Notification that the displaced persons of Old Tehri city shall be paid house construction assistance in lieu of which the petitioners are entitled to get the house construction assistance as the other displaced persons who have been allotted plots have been paid housing construction assistance, but the petitioners have been denied the same.

The respondents in their counter affidavit have contended that the cash in lieu of allotment package was declared in Oct. 1995 while, the house construction assistance for constructing a house on alloted plots in resettlement colonies was introduced in Dec. 1998 in the revised policy. The petitioners cannot avail both the package simultaneously. It is further contended that at the time of opting for cash in lieu of allotment the petitioners submitted affidavit that they have no further claim of any other benefit regarding surrender of plots. The petitioners' cases have already been settled under cash in

lieu of allotment provisions. The notification has been issued for the sake of those entitled land owners who still have to handover their house property at Old Tehri and were in possession of plot allotted to them in new resettlements.

No rejoinder affidavit is filed on behalf of the petitioners, to rebut the averments made in the counter affidavit.

Having heard learned counsel for the parties and perusing of the record, we are of the firm view that the respondents while declining the house construction assistance to the petitioners have given sufficient reasons, therefore, we are not inclined to issue writ of mandamus sought for by means of this writ petition.

However, the petitioners may make representation before the Rehabilitation Director, Tehri Hydro Development Corporation, New Tehri, Tehri Garhwal/respondent no.2. And the respondents, in case of receiving any representation, shall decide the same within a period of two months from the date of receipt of representation.

With these directions, the writ petition is disposed of finally. No order as to costs.

(M.M. Ghildiyal, J.) **(P.C. Verma, J.)**

September 8, 2006:

NCM: